

COUNTY OF YORK

MEMORANDUM

DATE: February 17, 2004 (BOS Meeting 3/16/04)

TO: York County Board of Supervisors

FROM: James E. Barnett, County Attorney

SUBJECT: Resolution authorizing the vacation of a portion of an existing easement, and a revision of the terms and conditions of the remaining retained portion of the easement

Attached is draft resolution R04-31, which has been advertised for a public hearing, which if adopted would authorize the County Administrator to vacate a portion of an easement previously conveyed by the Jamestown-Yorktown Educational Trust (the Trust) to the County for the construction of the Riverwalk project, and to amend the conditions affecting the use of the remaining portion of the easement. The easement in question crosses Parcel 12F, located immediately to the west of the property owned by the Watermen's Museum. It is the same parcel that was earlier discovered to contain chromium contamination (which, fortunately, was confined to only a small portion of the parcel), the remediation of which appears to have been successfully completed. The Trust still owns the property, but is under contract to convey it either to the County or directly to the Watermen's Museum. The Trust is currently awaiting final certification from the Virginia Department of Environmental Quality that the remediation was completed in accordance with approved plans.

In March 2003, the Trust conveyed to the County an easement across the property's waterfront, nearly 70' in width, so that the County could proceed with its plans to construct the project. At approximately the same time, the County was finalizing its agreement with the Watermen's Museum for similar easements across the Museum's property, and also for the conveyance of Parcel 12F to the Museum, with easements retained as needed for the Riverwalk project. However, at the time the Trust agreed to convey the easement to the County, the County only had draft plans for the Riverwalk, and out of caution asked for, and was given, an easement which has proven to be wider than what the County will ultimately require for the project. Rather than an easement nearly 70' in width (measured back from the existing shoreline), it appears that the County will require an easement only slightly in excess of 60' in width. Attached for your review is a copy of the plat recorded in March 2003 by which the County obtained its current easement from the Trust, and a second plat dated February 27, 2003, which

shows the contours of the easement as negotiated with the Watermen's Museum. As you can see, not only is the easement slightly narrower than what was obtained from the Trust, it is also subdivided into two easement areas (labeled "A" and "B" on the second plat), easement Area A being for the Riverwalk pedestrian pathway itself, and Area B being for shoreline stabilization measures. In order for the County to cause the property to be conveyed by the Trust to the Museum containing only those easements which the County has agreed with the Museum that it will retain, the County must (1) vacate the surplus width of the easement, and (2) agree to alter the terms and conditions of the easement so that it is, as is shown on the second plat, subdivided into Areas A and B, each area subject to its own restrictions as to use. The attached resolution, if adopted by the Board, would authorize the County Administrator to execute appropriate documentation to accomplish both of those purposes.

I recommend the adoption of resolution R04-31.

Barnett/3440:sw
Attachment

- Plats dated February 21, 2002 and February 27, 2003
- Resolution No. 04-31